

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

UNITED STATES, *et al.*,

*Plaintiffs,*

v.

GOOGLE LLC,

*Defendant.*

No. 1:23-cv-00108-LMB-JFA

**GOOGLE LLC'S THIRD STATUS REPORT  
REGARDING DOCUMENT REVIEW AND PRODUCTION**

Pursuant to the Court's order of September 15, 2023, ECF No. 440, Google LLC ("Google") submits this report regarding the status of the review and production of documents impacted by the ingestion site issue (the "Impacted Documents"), *see* ECF No. 422.

Over the past two weeks, Google has made tremendous progress in addressing the ingestion site issue. Google currently understands that there were approximately 16.1 million Impacted Documents. Approximately 9.6 million Impacted Documents were determined to be duplicates, and the remaining roughly 6.4 million documents were determined to be non-duplicates that needed to be reviewed (the "Review Population").

As of September 29, 2023, Google's initial review of the Review Population is more than 99 percent complete. Of the more than 6 million documents for which the initial review has been completed, approximately 105,000 documents that have been identified as privileged are still in the process of being logged (the "Privileged Population"), and approximately 3,500 documents have been identified as likely requiring redaction of privileged information before they can be

produced (the “Redaction Population”).

Since September 8, 2023, Google has produced a total of 1,360,513 documents on the following dates, including 801,268 documents in the last week:

- On September 14, 2023, Google produced 285,699 documents.
- On September 16, 2023, Google produced 57,853 documents.
- On September 20, 2023, Google produced 153,824 documents.
- On September 21, 2023, Google produced 61,869 documents.
- On September 22, 2023, Google produced 112,428 documents.
- On September 23, 2023, Google produced 312,777 documents.
- On September 26, 2023, Google produced 326,737 documents.
- On September 27, 2023, Google produced 19,201 documents.
- On September 28, 2023, Google produced 30,125 documents.

This production of over 1.3 million documents to Plaintiffs over the last three weeks<sup>1</sup> – on top of roughly 3 million documents produced during the pre-complaint investigation and roughly 1 million additional documents produced in this litigation before September 8 – results from considerable efforts by Google, its vendors, and its outside counsel to expand and expedite normal review and production processes. Beyond adding outside counsel reviewers, Google more than doubled the size of the team tasked with reviewing the Review Population to include over 1000 contract attorneys who have been instructed to work 12 hours a day Monday through

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<sup>1</sup> To produce so many documents so quickly, Google has had to prioritize production of documents over certain metadata. Specifically, Google has started including partial information in the DOC LINK metadata field and has produced native files without appending confidentiality designations to their filenames (while continuing to make confidentiality designations for these files on concurrently produced slip sheets). *See Declaration of Salvatore Mancuso at 5 n.2* (attached hereto as Exhibit A); *see also* ECF No. 142, at 15 (requiring production of metadata only “to the extent that it is reasonably practicable to do so”). Google will provide complete DOC LINK metadata as soon as practicable after October 6.

Saturday and 8 hours on Sunday. Google and its vendors have also made significant efforts to account for the machine-processing time that data sets of this massive size require, including creating a second review database to improve the speed of review and production processes. *See* Ex. A ¶ 18.

As a result of these efforts, Google anticipates that it will complete its production of responsive and non-privileged documents by October 6, 2023, with four potential exceptions:

1. **Privilege Redactions.** Making redactions to the Redaction Population involves time-consuming, manual effort, and then producing redacted documents involves additional processing steps to protect the redacted information from disclosure. *See* Ex. A ¶¶ 19-20. Google has been making redactions, but it may not be able to complete the process for all of the approximately 3,500 documents that are currently remaining in the Redaction Population by October 6. The Redaction Population amounts to less than one-half of one percent of the documents produced since September 8.
2. **Certain Linked Documents.** When an automated search finds responsive emails containing links to documents that do not hit on agreed-upon search terms (“linked documents”), the ESI Order requires Google to conduct a reasonable search for the document corresponding with each identified link and to produce any such documents that are not privileged, even if such documents do not come from the files of agreed-upon custodians or do not hit on search terms. *See* ECF No. 142, at 26. The automated process used to search for linked documents cannot reasonably capture the full universe of linked documents swept in by the ESI Order until *after* the emails that contain links to those documents have already been identified for production. To be clear, this issue impacts only linked documents that do not hit on search terms; linked documents that hit on search terms are among the documents in the Review Population that Google anticipates producing by October 6.
3. **Confirmatory Audit.** To ensure that there are no gaps in the productions, along with Google’s vendors, Google’s outside counsel is auditing the steps taken to collect, review, and produce documents. Any additional documents beyond the Review Population that are identified through that process will be produced by October 6, or as soon thereafter as possible.
4. **Production Processes.** After Google determines that documents should be produced, its vendor undertakes a series of processes to prepare them for production in compliance with the ESI Order. *See* Ex. A ¶ 21-22. Because those processes can take up to four days to run, any documents reviewed after October 2 might not be produced before October 6. Google is making and will continue to make all possible efforts to complete the review by October 2.

Google, its vendors, and its outside counsel are actively working to minimize the impact of these issues and striving to complete document production by October 6, or as soon thereafter as possible.

After October 6, Google will continue to closely scrutinize the Privileged Population while preparing a privilege log. *See* ECF No. 142, ¶ V(1) (requiring production of privilege log “within 45 days of each production”). As commonly occurs whenever privilege logs are prepared, Google may determine that some documents in the Privileged Population can be produced in full or in part and, in those cases, it will produce (i.e., “throwback”) those documents. Google has been working to minimize the number of these “throwbacks” by undertaking privilege-log preparation even while the Review Population continues to be reviewed for responsiveness and privilege.

Dated: September 29, 2023

Respectfully submitted,

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